

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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UNITED STATES OF AMERICA,

- against -

ALBERT CASTELLANO

Defendant.

01 Cr. 619 (VM)

ORDER

VICTOR MARRERO, United States District Judge.

Pending before the Court is Defendant Albert Castellano's ("Castellano") motion to vacate his sentence pursuant to 28 U.S.C. § 2255 (Dkt. No. 457.) The Government indicated in its initial submissions that it would consent to vacatur of certain of the petitioners' Section 924(c) convictions in light of intervening Supreme Court precedent. (Dkt. Nos 448, 452.) However, on November 12, 2024, the Government informed the Court that it overlooked that the petitioner's motion is a successive Section 2255 petition that relies on recent statutory decision instead of a "new rule of constitutional law" that would permit repeated habeas litigation. (Dkt. No. 469.) In light of this, the Government now opposes vacatur of the Section 924(c) conviction.

In order to give Castellano's counsel additional time to address these procedural arguments, the Court granted a

requested extension to file a reply to the Government to December 17, 2024. (Dkt. No. 473.) Defendant did not file a reply by that date. In light of the Government's change in position and the complex procedural arguments, the Court would benefit from additional briefing on this issue. Accordingly, Castellano has until February 28, 2025, to file a reply to the Government's opposition.

SO ORDERED.

Dated: 7 February 2025
New York, New York

A handwritten signature in blue ink, appearing to read 'VM', is written above a horizontal line.

Victor Marrero
U.S.D.J.